Inspector General Issues

DSN 655-3906

Comm. (703) 805-3906

IG Issues

- **Fraternization Policy**
- **Homosexual Conduct Policy**
- **Sexual Misconduct (harassment and assault)**
- **Trafficking in Persons**

ELO **Advance Sheets, pages 19-20**

Fraternization

Fraternization ELO

- **Describe the Army's policy on relationships between Soldiers of different rank, to include**
  - **Social Relationship**
  - **Family Relationship**
  - **Business Relationship**
  - **Personal Relationship**

Background

In 1998, Secretary of Defense directed that:

"all Services will, by policy, prohibit personal relationships such as dating, shared living accommodations, engaging in intimate or sexual relations, business enterprises, commercial solicitations, gambling and borrowing between officer and enlisted regardless of their Service. This change will not affect existin marriages."

Applicability

- **This policy applies to relationships between:**
  - **Army personnel (including military technicians in USAR and ARNG)**
  - **Army and other military services personnel**
  - **Different gender and same gender**

AR 600-20, para. 4-14a

Para 4-14 thru 4-16

Personnel-General

Army Command Policy

Headquarters
Department of the Army
Washington, DC
7 June 2006

Prohibited Relationships

ELO

- **Between Soldiers of different rank if they:**
  - **Compromise the chain of command**
  - **Cause partiality or unfairness**
  - **Improper use of rank for personal gain**
  - **Are exploitative or coercive in nature**
  - **Create an adverse impact on discipline, authority, morale, or mission accomplishment**
- **If they appear to violate any of these standards, they may also be prohibited**

AR 600-20, para. 4-14b

Prohibited Relationships: Business

ELO

- **Between officers and enlisted personnel**
  - **Borrowing or lending money**
  - **Commercial solicitation**

- **Exceptions**
  - **Landlord / tenant relationships**
  - **One-time transactions (such as sale of an automobile or house)**
  - **For ARNG / USAR only, business relationships which exist due to their civilian occupation or employment**

AR 600-20, para. 4-14c(1

Prohibited Relationships: Personal

ELO

- **Between officers and enlisted personnel, to include Military Technicians in the USAR and ARNG**

  - **Dating**
  - **Shared living accommodations (other than those directed by operational requirements)**
  - **Intimate or sexual relationship**

AR 600-20, para. 4-14c(2

Prohibited Relationships: Personal (continued)

- **Exceptions**
  - **Marriages**
  - **If change in status of one military member, they have one year to:**

    •terminate the relationship

    or

    •get married

Personal Relationships: Accountability

IG Issues

- **Senior person (by rank) is generally in the best position to terminate or limit the relationship**

- **Both members may be held accountable**

AR 600-20, para. 4-14e

Social & Family Relationships

ELO

- **Associations between officer and enlisted that <u>are not</u> prohibited:**
  - **Community organizations**
  - **Religious activities**
  - **Athletic teams and events**
  - **Unit-based social functions**
  - **Family gatherings**

AR 600-20, para. 4-14d

Social & Family Relationships: What If . . .

- **The installation golf course hosts a weekly golf "scramble." As part of this activity, participants pay a $10 fee, and the winning team keeps one half of the money. The participants are randomly assigned to foursomes. As a result, officers are in the same foursome with enlisted Soldiers.**

- **Is the "scramble" in this form allowable?**

Social & Family Relationships: Answer

- **Army policy allows associations between officers and enlisted Soldiers that occur in the context of athletic and community events.**

Gambling

ELO

- **Gambling between officers and enlisted personnel is prohibited.**

- **There are no exceptions.**

AR 600-20, para. 4-14c(3

Other Prohibited Relationships

ELO

- **Permanent-party personnel and IET trainees -- <u>not</u> required by missions**
- **Permanent-party personnel assigned to U.S. Recruiting Command and**
  - **Potential Prospects**
  - **Applicants**
  - **Future Soldier Training Program (Delayed-Entry Program and Delayed-Training Program)**

-- if <u>not</u> required by missions

AR 600-20, para. 4-15

Bottom Line

- **Army's goal:**
  Maintain a combat-ready force.

- **Army's standards:**
  Relationships that harm unit cohesion are unacceptable.

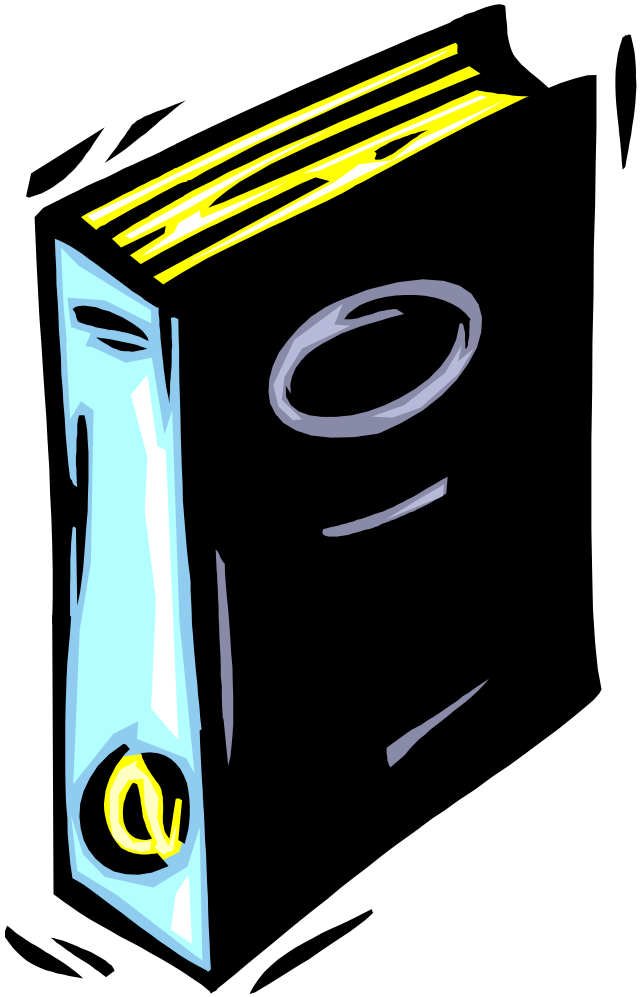
- **Army policy:**
  Commanders are the key players in enforcing the standards.

U. S. Army Homosexual Conduct Policy

Homosexual Conduct Policy ELOs

- **Describe the basis for discharge under the Army Homosexual Conduct Policy.**
- **Identify who may initiate, and what constitutes grounds for, a fact-finding inquiry into allegations of homosexual conduct.**
- **Identify who (what level of the Army) must approve initiating a substantial investigation into whether a Soldier stated that he or she was homosexual or bi-sexual for the purpose of avoiding or terminating military service.**

Homosexual Conduct Policy



- **AR 600-20, *Army Command Policy*, paragraph 4-19**
- **Implements**
  - **10 U.S. Code § 654**
  - **DoDD 1332.14**
  - **DoDD 1332.30**

The Law

ELO

A member of the Armed Forces shall be processed for separation if one of the following findings is made:

- **The member has stated that he or she is homosexual or bisexual, or words to that effect**
- **The member has engaged in, attempted to engage in, or solicited another to engage in homosexual act(s)**
- **The member has married or attempted to marry a person known to be of the same biological sex**

S A M

AR 600-20, para. 4-19

Limits on Inquiries

Applicants for enlistment will not be asked …

- **Their sexual orientation**
- **If they have engaged in homosexual conduct**

don't ask -- don't tell

AR 600-20, para. 4-19b

Homosexual Conduct Fact-Finding Inquiries

ELO

IG Issues

- **Only the commander is authorized to initiate fact-finding inquiries**
- **May designate someone else to conduct**
- **Must have credible information from a reliable person who states he or she:**
  - **Stated that he or she is homosexual or bisexual, or words to that effect**
  - **Engaged in, attempted to engage in, or solicited another to engage in homosexual act(s)**
  - **Married or attempted to marry a person known to be of the same biological sex**

AR 600-20, para. 4-19d

Not Credible Information

- Rumors, suspicions, or capricious claims
- Others' opinions
- Going to a homosexual bar
- Reading homosexual publications
- Associating with known homosexuals
- Marching in homosexual rights rallies in civilian clothes
- Reports by a Soldier of being harassed on the basis of perceived sexual orientation

If Soldier Makes a Homosexual Statement

- **Automatic discharge is not required if it is determined that the Soldier made the statement for the purpose of avoiding or terminating military service.**

- **The Soldier's commander may initiate an inquiry to determine whether that member should be discharged.**

If Soldier Makes a Homosexual Statement But the Commander Thinks the Soldier is Lying

ELO

Commander can question:

- Soldier
- Soldier's immediate supervisory chain of command
- Individuals Soldier suggests

Going outside this group is considered a

SUBSTANTIAL INVESTIGATION

Requires approval at the **Army Secretariat** Level

AR 600-20, para. 4-19e

Harassment
Zero Tolerance

IG Issues

- **Definition: Derogatory, abusive, threatening, or annoying behavior or words directed toward an individual or group (verbal, Jody calls, graffiti, threats)**
- **Soldier will report harassment to the commander**
- **Commanders will take appropriate action to protect the safety of the individual who reported threats or harassment**
- **All members will be treated with dignity and respect and will be afforded a safe and secure environment in which to live and work**

With Whom Can a Soldier Talk Confidentially?

- **Legal Assistance Attorney**
- **Chaplain**
- **IG ? It depends.**
  - **If a Soldier makes a homosexual statement to you, CALL DAIG LEGAL IMMEDIATELY FOR GUIDANCE at (703) 601-1093.**

Most Soldiers do not know this!

Homosexual Conduct
State Laws versus Army Policy

- **Some cities allow same-sex marriage**
  (New Paltz, New York; San Francisco, California)

- **One state allows same-sex civil unions**
  (Vermont)

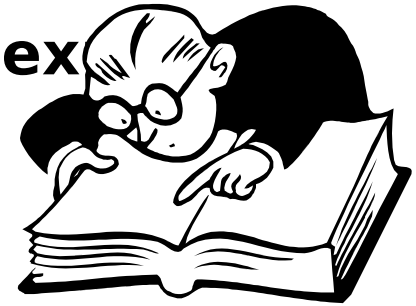
- **<u>Regardless of legality, any attempt to solemnize a relationship as a civil union or marriage between Soldiers of the same sex is a basis for discharge</u>**

Homosexual Conduct Policy

References and Training

IG Issues

- **AR 600-20, *Army Command Policy*, para 4-19**
- **DoDDs 1332.14 and 1332.30**
- **10 USC 654**
- **Article 137, UCMJ**
- **http://www.armyg1.army.mil/hr/command.asp**
  - **“Don't ask, Don't Tell": Questions and Answers**
  - **Power Point Slide show on Homosexual Conduct Policy Training**
  - **SecArmy / CSA Message on Homosexual Policy (10 Jan 2000)**
  - **More**



The Bottom Line

Call
Your
Attorney

Sexual Misconduct in the Army

IG Issues

Sexual Misconduct ELO

- **Describe an IG's actions upon receiving an allegation of sexual harassment or sexual assault.**
- **Identify what office can work a complaint involving sexual harassment or sexual assault.**

What is Sexual Harassment?

Sexual Harassment is a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature -- sometimes as a term or condition of a person's job, pay, or career.

AR 600-20, para. 7-4

Forms of Sexual Harassment

- **Verbal**
  - **Whistling, Jody calls, jokes with sexual connotations, request for sexual favors**
- **Non-verbal**
  - **Leering, ogling of another, gestures**
- **Printed material**
  - **Pictures, cartoons, magazines, coffee cups, figurines, calendars**
- **Physical**
  - **Touching, kissing, pinching, blocking passage way, patting**

AR 600-20, para. 7-5

The Impact of Sexual Harassment

- **Interferes with the person work performance**
- **Creates a hostile environn**
- **Introduces a high degree of fear and anxiety into the workplace**

BOTTOM LINE: Soldiers or civilians who fend off offensive and repeated sexual attacks do not perform quality work.

Sexual Harassment

ELO

- **Do IGs work sexual harassment (EO) allegations?**

- **It depends:**
  - **AR 20-1, para 4-4h**
  - **Local command policy**
  - **Either IG or Equal Opportunity Advisor may work**

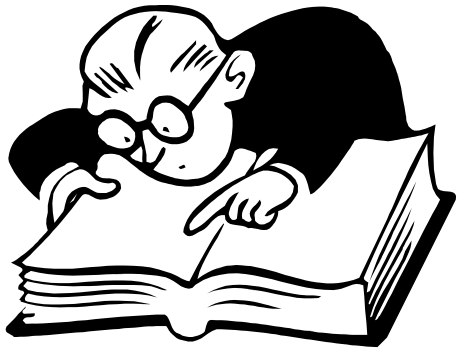
Sexual Harassment Inquiries

IGs must…

- **Address the complaint**
- **Look at the larger picture**
- **Look at the issues that impact:**
  - **Unit cohesion**
  - **Mission effectiveness**
  - **Acceptable standards of equality and fair play**

Sexual Harassment
References and Training

- **AR 600-20, Chapter 7**
- **Conduct progressive, interactive, small-group sexual harassment training twice a year**
- **AR 20-1, para 1-4**
- **UCMJ, Art 93**



CURRENT NEWS EARLY BIRD

TUESDAY, February 4, 1997

Top Enlisted Man in the Army Stands Accused of Sex Assault

Target of Allegation Is on Panel Reviewing Harassment Issue

By ERIC SCHMITT

WASHINGTON, Feb. 3 — A 22-year Army veteran has accused her former boss, the Army's top-ranking

come her initial fears about reporting the incident and had told her superiors at the Pentagon about it about seven weeks later, they had taken no action against Sergeant Major McKinney and had suppressed her complaint. They also ignored her pleas for a job transfer and left her with no other choice but to retire early, she said.

That could have ended the matter. Sergeant Major Hoster, a 39-year-old Army journalist and public affairs

NEW YORK TIMES
February 4, 1997
Pg. 1

The Sergeant Major of the Army — the senior person of that rank, chosen from among the service's Sergeant Majors — is the top adviser to the Army Chief of Staff, a four-star general, on all matters, from housing to health care, relating to the Army's 410,000 enlisted soldiers. Enlisted soldiers make up 85 percent of the Army's ranks. Sergeant Major Hoster was Sergeant Major McKinney's public affairs specialist, responsible for helping him write his speeches

The Washington Post

Thursday, May 11, 2000

Weather
Today: *Sunny, pleasant. High 80. Low 60.*
Friday: *Partly sunny, humid. High 84. Low 62.*

Details, Page **B8**

123rd Year No. 158 S

Army Verifies Harassment Claim

Female General's Charge Likely to Mean Reprimand, Retirement for Fellow Officer

By Thomas E. Ricks
and Roberto Suro
Washington Post Staff Writers

Army investigators have substantiated a charge by the highest-ranking woman in the Army, Lt. Gen. Claudia J. Kennedy, that another Army general, Larry G. Smith, touched her in a sexual manner and tried to kiss her in a Pentagon office in 1996, defense officials said.

Although Kennedy did not file a sexual harassment complaint at the time, the Army investigation found, she did describe the incident to friends and colleagues soon after it occurred, and they have recently corroborated her account. If the findings are accepted by the Army's leadership, as officials familiar with the matter expect, Smith probably will receive a reprimand and be forced to retire.

"This is close to winding up," said one Pentagon official. "There will be a finding that an adverse allegation was substantiated."

Kennedy's charge, which was made privately last year but leaked in March, has been cited as evidence that sexual harassment remains pervasive in the military, even against high-ranking female officers.

Senior Army leaders had worried that the matter would remain unresolved because, ultimately, it would come down to the word of one general against another. But investigators found the supporting accounts by Kennedy's friends and colleagues to be specific and persuasive, Pentagon officials said.

That evidence is included in a report compiled by the Army inspector general's office. Senior officials have not yet approved the report but are expected to do so by

See HARASS, *A20, Col. 1*

FILE PHOTO/BY TOM CALLAN—ASSOCIATED PRESS

Lt. Gen. Claudia Kennedy's account was corroborated, officials said.

S. Carolina's

An Electric Moment

U.S. Army Inspector

IG Issues

AirForceTimes
NCOs: REENFORCED
NEW RULES DETAIL WHAT'S EXPECTED OF EVERY AIRMAN
Force of the future
AWOL again
EQUAL But inside
BUSTED TO COLONEL
The inside story of sex, racy e-mail & 'stunning hypocrisy' that destroyed a two-star's career 14
PLUS
Outraged readers: This is not justice! 44

U.S. Army Inspector

What is Sexual Assault?

Sexual Assault refers to offenses of a sexual nature committed without the lawful consent of the victim such as rape, forcible sodomy, indecent assault, and carnal knowledge.

AR 600-20, para. 8-4

IG Issues

Sexual Assault
Unawareness and Improper Procedures

DAIG Inspection completed on 26 May 04 found:

- **High number of cases either unreported or reported informally**
- **Training in prevention of sexual harassment is conducted but not effective concerning sexual assault**
- **Soldiers not aware of reporting procedures and / or protocols outside of immediate chain of command**
- **Designated Equal Opportunity Representative support systems were not well advertised**

Sexual Assault
Report and Care

IG Issues

- **Under DoD Confidentiality Policy, the victim is offered two reporting options:**
  - **Unrestricted Reporting**
    - **Receive medical treatment, counseling**
    - **Official investigation**
  - **Restricted Reporting**
    - **Receive medical treatment, counseling**
    - **Confidentially disclose the crime to specifically identified individuals (Sexual Assault Response Coordinator, Victims Advocate, Healthcare Providers, Chaplain)**
    - **No official investigation**

AR 600-20, Appendix H

IG Issues

Sexual Assault
Restricted Reporting Eligibility

- **Who may make a restricted report**
  - **Active Duty**
  - **Reserve (performing Federal duty)**
  - **National Guard (Under Title 10)**

- **Who may not make a restricted report:**
  - **Dependents**
  - **DoD civilians**
  - **Retired members of any component**
  - **National Guard Soldiers (Under Title 32)**

The IG's Role in Sexual Assault IGARs

IG Issues

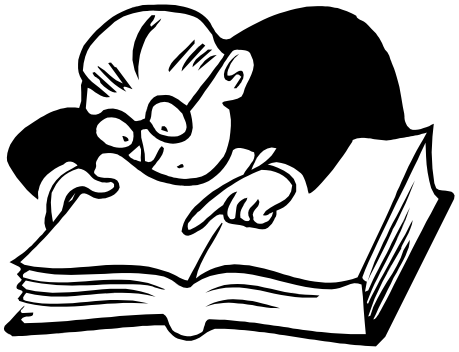
ELO

- **"It Depends" upon the source**

- **Local IGAR by complainant is usually referred to local CID for investigation**

- **DAIG controls Army-level referrals (SECARMY, Chief of Staff, etc.) as Office of Record (treat like a Congressional inquiry)**

Sexual Assault
References and Training



IG Issues

- **AR 600-20, Chapter 8**
- **AR 20-1, para 1-4**
- **UCMJ, Art 93**
- **Professional Military Education (IET, WLC (PLDC), WOBC, CCC, BNCOC, SMC, etc.)**
- **Annual Sexual Assault Prevention and Response training**
- **Pre-deployment and post-deployment training**
- **Sexual Assault Risks, Prevention, and Response added to all Holiday Safety Briefings**
- **http://www.sexualassault.army.mil**

Trafficking in Persons

Trafficking: As Defined by the Trafficking Victims Protection Act of 2000

IG Issues

- **Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or**
- **The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.**

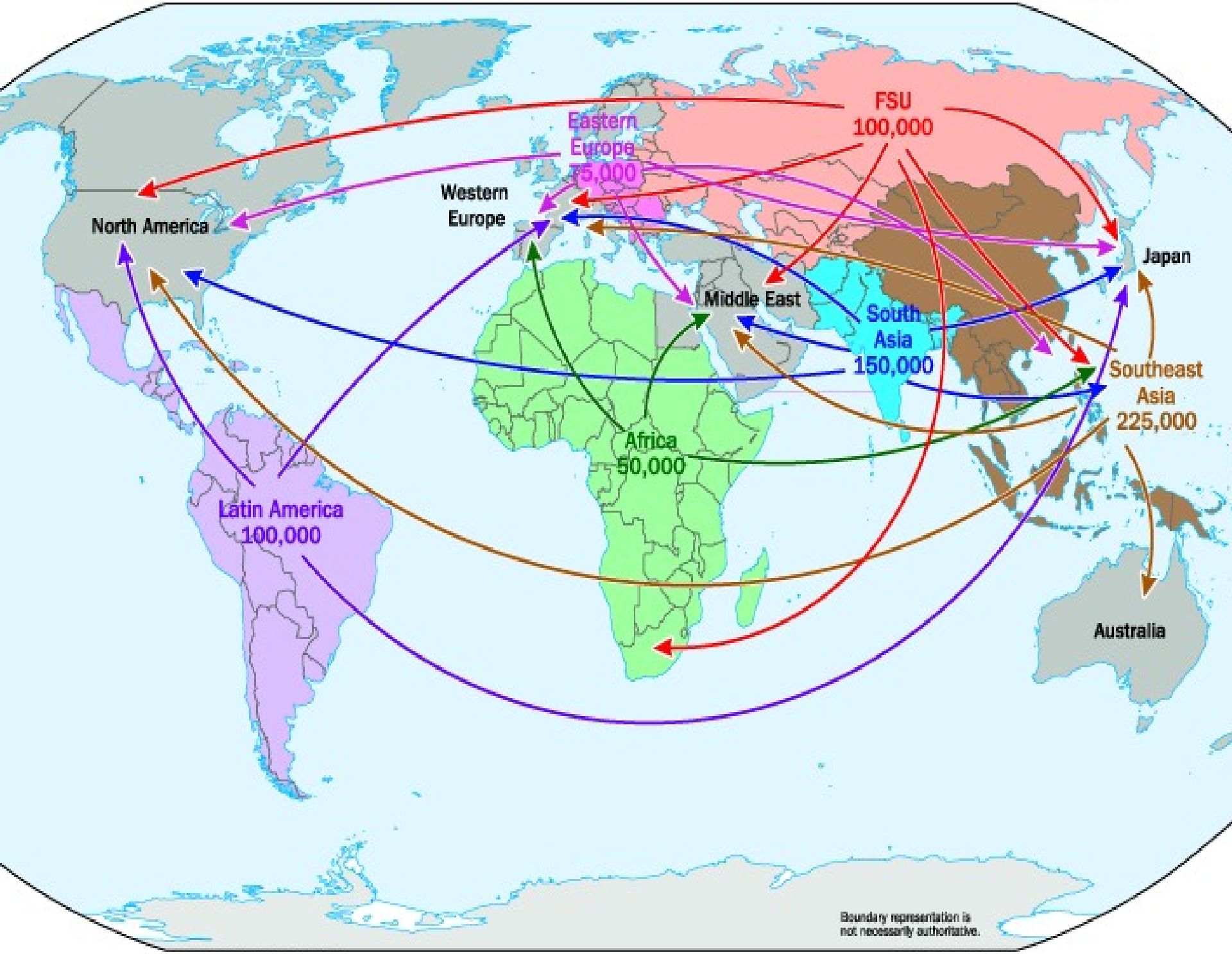
Trafficking in Persons (TIP) or Human Trafficking

IG Issues

Victims are forced, defrauded, or coerced into labor or sexual exploitation

- **600,000 to 800,000 people trafficked annually across national borders -- more within own countries**
- **Mostly women and childre**
- **Modern-day slavery**

Global Trafficking in Women and Children: Major Source Regions and Destinations (C)



Trafficking in Persons

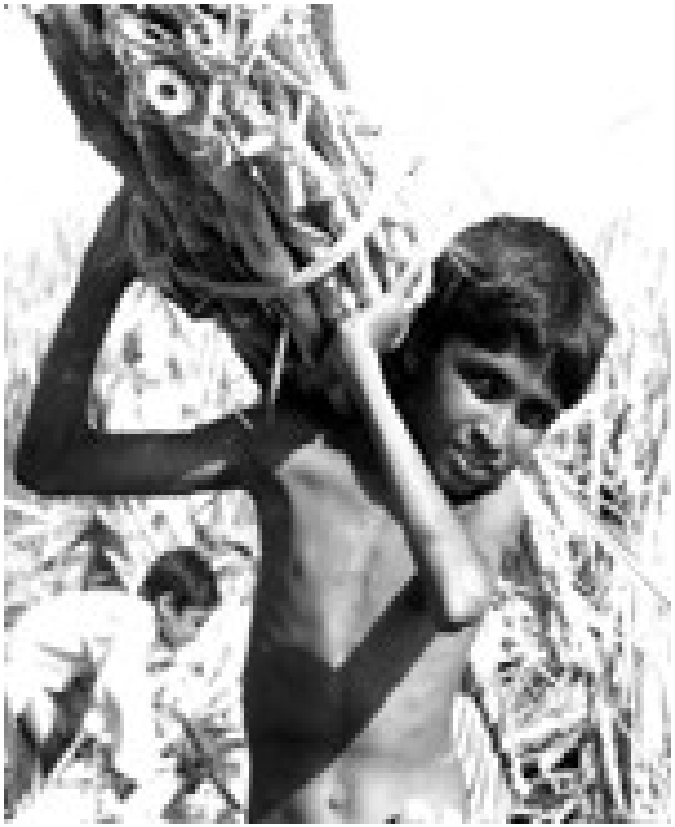
IG Issues

- **Forms**
  - **Sex tourism, prostitution, includes children**
  - **Forced labor, domestic servitude, child soldiers**
- **Methods of Coercion**
  - **Fraudulent ads for employment (maid, nannies, modeling)**
  - **Promises of travel**
  - **Threats, intimidation, or violence**
- **Thriving Business**
  - **Poverty, demand for cheap labor, high profits -- low risks**
  - **Political and economic instability, official corruption**
  - **Disasters (Tsunami December 2004)**

U.S. Government Policy: Actively combat TIP

The Face of Forced Labor

IG Issues



"My name is Jorge…
I was abducted and taken to a sugar cane plantation in Brazil where I work as a slave. I am one of millions of forced laborers in the world today."

The Face of Forced Labor

IG Issues

Forced Child Labor
in United Arab Emirates

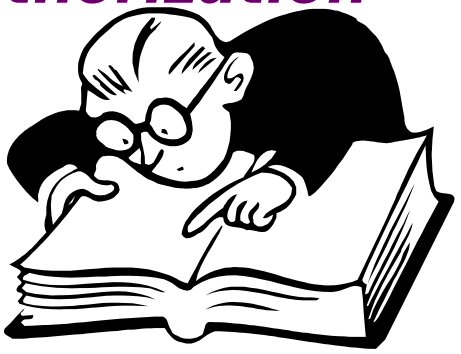
U.S. Army Inspector

IOM Slovakia Prevention and Protection Campaign

Trafficking in Persons
References and Training

IG Issues

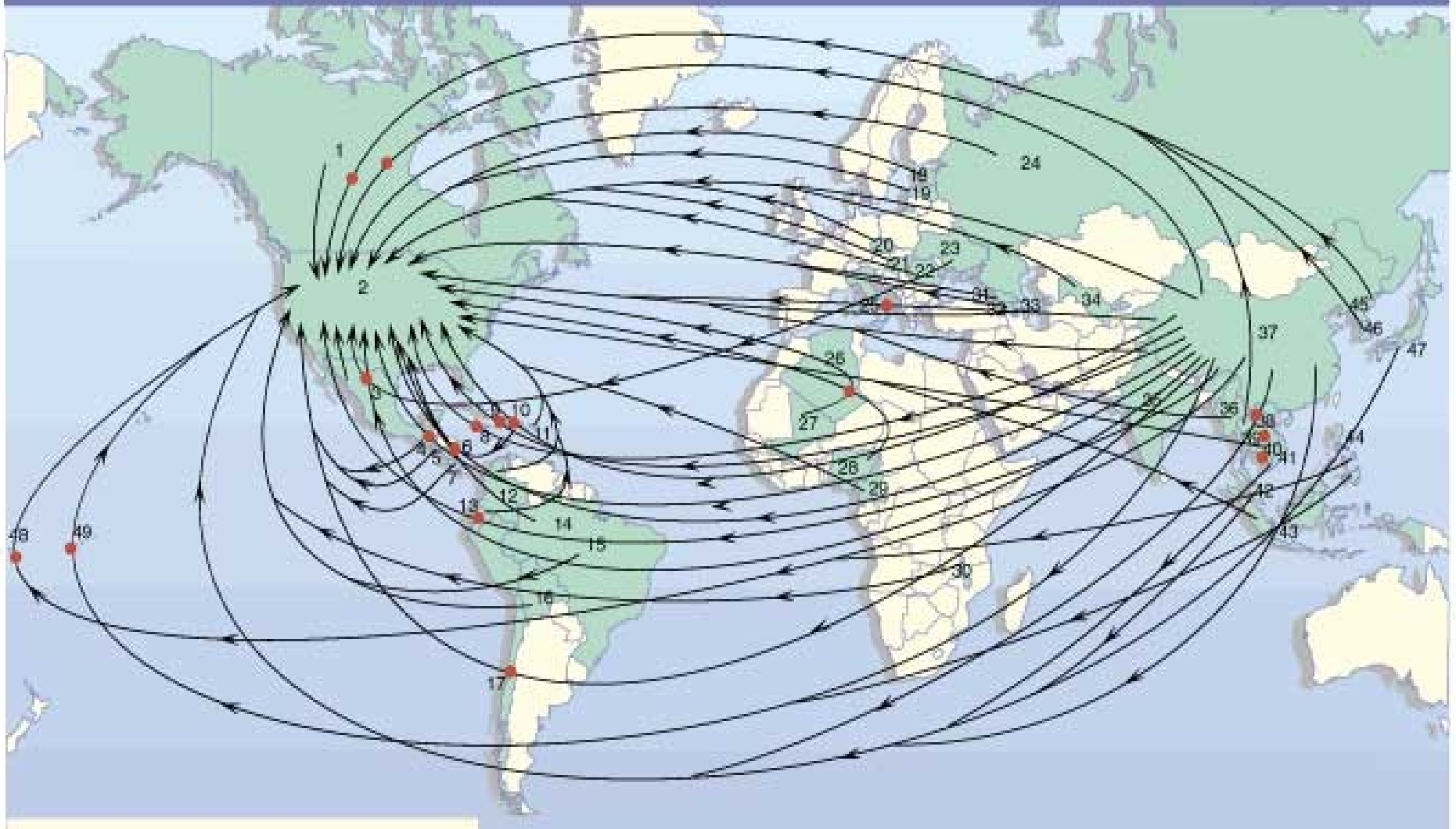
- **Commanders must ensure that units understand and recognize indicators of TIP**
- **U.S. Laws and Action**
  - **Military Extraterritorial Jurisdiction Act of 2000**
  - **The *Trafficking Victims Protection Act of 2000* (P.L. 106-386)**
  - ***Trafficking Victims Protection Reauthorization Act of 2003* (H.R. 2620)**
- **State Department**
  - **http://www.state.gov/g/tip/**
  - ***2006 Trafficking in Persons Report***
- **http://projects.aadlcolab.org/tip/**



Questions?

Fraternization Policy
Homosexual Conduct Policy
Sexual Misconduct (harassment and assault)
Trafficking in Persons

Trafficking of Persons, Especially Women and Children: USA Routes



1) Canada, 2) USA, 3) Mexico, 4) Guatemala, 5) El Salvador, 6) Nicaragua, 7) Costa Rica, 8) Jamaica, 9) Haiti, 10) Dominican Republic, 11) Peurto Rico, 12) Colombia, 13) Ecuador, 14) Peru, 15) Brazil, 16) Bolivia, 17) Chile, 18) Estonia, 19) Latvia, 20) Czech Republic, 21) Hungary, 22) Romania, 23) Ukraine, 24) Russia, 25) Italy, 26) Algeria, 27) Mali, 28) Nigeria, 29) Cameroon, 30) Malawi, 31) Georgia, 32) Armenia, 33) Azerbaijan, 34) Uzbekistan, 35) India, 36) Burma, 37) China, 38) Laos, 39) Thailand, 40) Cambodia, 41) Vietnam, 42) Malaysia, 43) Indonesia, 44) Philippines, 45) North Korea, 46) South Korea, 47) Japan, 48) Nauru, 49) Kiribati.

Routes represent at least one documented case of trafficking of persons. See individual country reports for additional information.

Countries with trafficking activity
Transit Stop

Source: ©The Protection Project
Johns Hopkins University
School of Advanced
International Studies

Created by Neha Mathur

March 2002